GOVERNMENT OF INDIA
LAW , JUSTICE AND COMPANY AFFAIRS
LOK SABHA

STARRED QUESTION NO:348
ANSWERED ON:17.08.2000
LEGISLATION AGAINST STATE BANDHS
M.A. KHARABELA SWAIN

Will the Minister of LAW , JUSTICE AND COMPANY AFFAIRS be pleased to state:

(a) whether the Government intend to bring a legislation proclaiming State bandhs as unconstitutional in view of the decision of the Kerala High Court;

(b) if so, the details thereof; and

(c) the steps, the Government propose to take to protect the freedom of the people who suffer mostly because of frequent bandhs?

Answer

MINISTER OF STATE OF THE MINISTRY OF INFORMATION AND BROADCASTING (INDEPENDENT CHARGE) AN MINISTER OF STATE OF THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (INDEPENDENT CHARGE) (SHR JAITLEY)

(a), (b) & (c) : The government has no intention to bring a legislation proclaiming State bandhs as unconstitutional. The judgment of the Kerala High Court in Bharat Kumar vs. State of Kerala has been already upheld by the Supreme Court of India. Further, the distinction made by the Kerala High court between the expression `bandh` and the call for general strike or `hartal` has been upheld by the Supreme Court stating that there cannot be any right to call or enforce a `bandh` which interferes with the exercise of the freedoms of other citizens. A call given for `bandh` as the Kerala High Court noticed, may completely halt locomotion and as a result, involve danger to life and property particularly of those, who attempt to go against the call for the `bandh`. This is primarily a matter of law and order/public order and would normally fall within the jurisdiction of the States. It would be for the States and all others concerned to comply with ratio of the judgement of the Kerala High Court as confirmed by the Supreme Court of India. Suitable assistance such as paramilitary forces and sharing of intelligence can be and is, however, provided by the Central Government as per requirements of the State Government.